Internal Revenue Service

Number: **200906008** Release Date: 2/6/2009

Index Number: 642.03-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To: CC:PSI:B02 PLR-118772-08

Date:

October 08, 2008

Trust =

<u>A</u> =

Date 1 =

Dear

This responds to a letter dated April 15, 2008 submitted on behalf of <u>Trust</u> by <u>Trust</u>'s authorized representative, requesting a ruling under § 642(c) of the Internal Revenue Code.

The information submitted states that <u>Trust</u> is an irrevocable trust created on <u>Date 1</u>. <u>A</u>, an individual, is the primary beneficiary of the Trust.

Subparagraph 3.3 (a) of the $\underline{\text{Trust}}$ Agreement provides that \underline{A} has a lifetime limited power of appointment over $\underline{\text{Trust}}$ as follows: "[T]he Trustee shall distribute all or any portion of the trust estate as \underline{A} may appoint, at any time and from time to time during the lifetime and upon the death of such beneficiary to any one or more 'charitable organizations'."

Subparagraph 12.1(f) of the <u>Trust</u> Agreement provides that a 'charitable organization' is an organization which at the time contemplated for an actual distribution to it is exempt from federal income taxation under § 501(a) as an organization described in § 501(c)(3) and also is described in all of §§ 170(c), 2055(a) and 2522(a).

<u>A</u> intends to exercise the limited power of appointment to cause the trustee of <u>Trust</u> to distribute part or all of the income of the <u>Trust</u> to one or more charitable organizations as defined in the <u>Trust</u> Agreement.

Section 642(c)(1) provides that in the case of an estate or trust (other than a trust meeting the specifications of subpart B of part I of subchapter J of chapter 1), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by § 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in § 170(c) (determined without regard to § 170(c)(2)(A)).

Section 1.642(c)-1(a)(1) provides that any part of the gross income of an estate or trust which, pursuant to the terms of the governing instrument is paid (or treated under paragraph (b) of § 1.642-1 as paid) during the taxable year for a purpose specified in § 170(c) shall be allowed as a deduction to such estate or trust in lieu of the limited charitable contributions deduction authorized by § 170(a).

Based solely on the information submitted and the representations made, we conclude that a distribution of gross income from $\underline{\text{Trust}}$ to one or more charitable organizations made pursuant to $\underline{\text{A}}$'s limited power of appointment will be made "pursuant to the terms of the governing instrument" as provided in § 642(c)(1). Therefore, provided that the other requirements of § 642(c) are satisfied, such distribution from $\underline{\text{Trust}}$ will qualify for the charitable contribution deduction under § 642(c).

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code. The ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent. Pursuant to a power of attorney on file, a copy of this letter is being sent to <u>Trust</u>'s authorized representative.

Sincerely,

Bradford R. Poston Senior Counsel, Branch 2 (Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purpose